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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,543	01/18/2001	John Spinks	2983.2.1	9442
7590	01/28/2005		EXAMINER	
A. JOHN PATE PATE PIERCE & BAIRD PARKSIDE TOWER 215 SOUTH STATE STREET, SUITE 550 SALT LAKE CITY, UT 84111			PHILLIPS, HASSAN A	
			ART UNIT	PAPER NUMBER
			2151	
DATE MAILED: 01/28/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/764,543	SPINKS ET AL.
	Examiner Hassan Phillips	Art Unit 2151

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 26 October 2004.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-27 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-27 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 12 May 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Response to Amendment***

1. This action is in response to amendments received on September 27, 2004.

### ***Drawings***

1. The Applicants arguments, filed September 27, 2004, with regards to the objection to the drawings are convincing. The Examiner has therefore withdrawn the objection to the drawings.

### ***Specification***

1. The Examiner has received the amendments to the abstract of the disclosure. After consideration of the amendments, the Examiner has withdrawn the objection to the abstract.

2. The Examiner has also received the amendments made to the specification. The Examiner would like to thank the Applicant for correcting minor errors found in the specification.

### ***Response to Arguments***

1. Applicant's arguments filed September 27, 2004 have been fully considered but they are not persuasive. Applicant argued that:

- a) There is no mention in Nakamura of the function or structure of "a reporting module configured to query a network infrastructure device";
- b) There is no mention in Nakamura of the function or structure of "a correlation module configured to associate the end point connection information corresponding to the first network device to a location identifier corresponding to a physical location";
- c) There is no mention in Nakamura of "end point connection information comprising a port number of the network infrastructure device";
- d) There is no mention in Nakamura of "transmitting end point connection information to a database";
- e) There is no mention in Nakamura of the function or structure of "an update module detecting a change in end point connection information";
- f) There is no mention in Nakamura of the function or structure of "an inventory module configured to detect a second network device local to the first network device and obtain end point connection information corresponding to the second network device".

Examiner respectfully submits that Applicant has misinterpreted the prior art of record.

Regarding item a), in col. 2, lines 44-56, Nakamura teaches "a requesting unit, for querying another electronic apparatus..." Clearly, the Examiner has interpreted the "requesting unit" to be the "reporting module" claimed by the Applicant, and the "electronic apparatus" to be the "network infrastructure device" claimed by the Applicant.

Nothing in the claims limits the network infrastructure to a router or a switch, and thus, a network infrastructure could be interpreted as an electronic apparatus or "node" as taught by the reference. A node or any electronic device connected to a network can be considered a network infrastructure.

Regarding item b), In col. 2, lines 44-56, Nakamura further teaches the "requesting unit, querying another electronic apparatus connected to a bus network to obtain inherent information concerning the queried electronic apparatus, including, at the least, position information specifically identifying the location of the queried electronic apparatus..." Clearly the Examiner has interpreted the "requesting unit" to be the "correlation module" as claimed by the Applicant, and "position information specifically identifying the location of the queried electronic apparatus" to be "end point connection information corresponding to the first network device". End point connection information can also be information specifically identifying the location of a queried device as shown in the reference.

Regarding item c), in col. 10, lines 35-41, Nakamura teaches the nodes having communication ports (endpoint connections), and associated port numbers used to identify the nodes.

Regarding item d), In col. 16, line 66 through col. 17, line 32, Nakamura further teaches creating a device map using the node ID's, and storing the device map at a database. Thus, end point connection information is transmitted to a database, since a device map contains endpoint connection information for the nodes.

Regarding item e), in col. 9 line 57 through col. 10 line 2, Nakamura teaches a "...node can detect a change in the connection configuration of the network...A node that has detected a change in the connection configuration of the network (e.g., the removal of a node and a change in the number of nodes resulting from the powering on or off of a node)..." Here the Examiner has interpreted a "node" to be the "update module" as claimed by the Applicant, and "removal of a node" as "a change of end point connection information" as claimed by the Applicant. Detecting the removal of a node is the same as detecting a change of end point connection information.

Regarding item f), in col. 10, lines 51-53, Nakamura teaches a node detecting local nodes in order to declare a parent-child relationship through their communication ports (end point connections). Here the Examiner interpreted the "node" to be the "inventory module".

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "switches, routers, hubs, and the like", "port 1 or router R1", etc.) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Furthermore, the Examiner has interpreted the claim language as broadly as possible. It is also the Examiner's position that Applicant has not yet submitted claims drawn to limitations, which define the operation and apparatus of Applicant's disclosed invention in a manner that distinguishes over the prior art.

Failure for Applicant to significantly narrow definition/scope of the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims with scope parallel to the Applicant in the response and reiterated the need for Applicant to define the claimed invention more clearly and distinctly.

Accordingly the references supplied by the examiner in the previous office action covers the claimed limitations. The rejections are thus sustained. Applicant is requested to review the prior art of record for further consideration.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-27, are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Nakamura, U.S. patent 6,721,818.

3. In considering claims 1 and 10, Nakamura teaches an apparatus and article of manufacture for physical detection and tracking of devices on a computer network, the apparatus comprising:

- a) A processor, or executing executable data structures, and a memory device operably connected to the processor for storing the executable data structures and associated operational data structures, (col. 2, lines 5-13); the executable and operational data structures comprising:
- b) A reporting module configured to query a network infrastructure device and obtain end point information corresponding to a first network device, and a correlation module configured to associate the end point connection information corresponding to the first network device to a location identifier corresponding to a physical location, (col. 2, lines 44-56).

4. In considering claims 2 and 11, Nakamura teaches the connection information comprising a port number. See col. 10, lines 35-41.

5. In considering claims 3 and 12, Nakamura teaches the reporting module comprising a communication module configured to transmit the end point connection information to a central database. See col. 16, lines 66-67, col. 17, lines 1-32.

6. In considering claims 4 and 13, Nakamura teaches the reporting module further comprising an update module configured to detect a change of end point connection information corresponding to the first network device. See col. 9, lines 57-67, col. 10, lines 1-2.

7. In considering claims 5 and 14, Nakamura teaches the reporting module further comprising an inventory module configured to detect a second network device local to the first network device and obtain end point information corresponding to the second network device. See col. 10, lines 51-53.

8. In considering claims 6 and 15, it is inherent that the apparatus and article of manufacture taught by Nakamura comprises a monitoring module configured to receive end point connection information from the reporting module. See col. 9, lines 57-67, col. 10, lines 1-2.

9. In considering claims 7 and 16, Nakamura teaches the correlation module further comprising a device recognition module configured to identify the nomenclature of the first network device based on product recognition records. See col. 19, lines 66-67, col. 20, lines 1-14.

10. In considering claims 8, 9, 17, and 18, the apparatus and article of manufacture taught by Nakamura further provides a means for the inventory module to detect and transmit software and hardware configuration information corresponding to a first or second network device. See col. 2, lines 5-13.

11. In considering claim 19, Nakamura teaches a method for physical detection and tracking of devices on a computer network, the method comprising:

- a) Querying a network infrastructure device to obtain end point connection information corresponding to a first network device, (col. 2, lines 44-56);
- b) Reporting the end point connection information to a central database, (col. 16, lines 66-67, col. 17, lines 1-32);
- c) Associating the end point connection information corresponding to the first network device to a location identifier corresponding to a physical location, (col. 17, lines 62-67, col. 18, lines 1-45).

12. In considering claim 20, Nakamura teaches the connection information comprising a port number. See col. 10, lines 35-41.

13. In considering claim 21, Nakamura teaches the central database comprising device records storing end point connection information corresponding to network devices. See col. 19, lines 66-67, col. 20, lines 1-4.

14. In considering claim 22, it is inherent in the method taught by Nakamura that upon detecting a change of end point connection information corresponding to the first network device, updating the central database to reflect the change. See col. 9, lines 57-67, col. 10, lines 1-2. Also see col. 16, lines 66-67, col. 17, lines 1-32.

15. In considering claim 23, Nakamura teaches detecting a second network device local to the first network device and obtaining end point information corresponding to the second network device. See col. 10, lines 51-53.

16. In considering claim 24, Nakamura teaches identifying the nomenclature of the first network device based on product recognition records stored in the central database. See col. 19, lines 66-67, col. 20, lines 1-14.

17. In considering claims 25 and 27, the method taught by Nakamura further provides a means for detecting software and hardware configuration information corresponding to a first or second network device. See col. 2, lines 5-13.

18. In considering claim 26, Nakamura teaches transmitting the software and hardware configuration information corresponding to the first network device to a central database. See col. 19, lines 66-67, col. 20, lines 1-14.

### **Conclusion**

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is (571) 272-3940. The examiner can normally be reached on M-F 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HP/  
12/22/04



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